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THE ORIGIN & GROWTH *of the* ENGLISH PARISH

Illustrated by Material taken from the Exeter Episcopal Registers

by

OSWALD J. REICHEL, B.C.L., M.A., F.S.A.

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The Origin and Growth of the English Parish

ILLUSTRATED BY MATERIAL TAKEN FROM THE EXETER EPISCOPAL REGISTERS

Introduction.

The Church began among the Jews as a section of the synagogue. Previously to the year 60 Nazarites, as Christians were at first called, were looked upon as a Jewish sect. Christianity, like Judaism, followed trade and spread from city to city. In some cities all the elders of the synagogue accepted it, in others only a few, in others none at all. Thus its institutions followed those of the synagogue. In each city it was under collegiate government, that of presbyters and deacons presided over by a ruler in place of the ruler of the synagogue. And when the breach with Judaism finally came local churches still continued under collegiate government, but subject to the apostles' authority until all of these had passed away. Some fifty years later a ruling presbyter, overlooker, or bishop is found occupying the place of the ruler of the synagogue in every city to which the faiths had penetrated.

I. The Parish in the Roman Empire.

The collegiate churches of the great Roman cities are not, however, the basis of the parochial system, the origin of which it is here proposed to investigate. On the contrary the term *παροικία*, in Latin *parœcia* or parish, when first met with in the fifth century is used of districts outside those cities. Innocent I. (401–416 A.D.) uses the term to express an outside or suburban district or chapel.

In his well-known letter to Decentius (Ep. 25 c. 5) he writes that the presbyters of the Roman city churches (*tituli*) celebrated the Eucharist every day in union with him their bishop, but on Sundays being obliged to preside in their district churches (*tituli*) for the sake of the people, he was in the habit of sending to them by collets the Eucharist consecrated by himself that they might not deem themselves on that day separated from his communion. He does not, however, adopt the same course in dealing with the outside or suburban churches (*parœciæ*) because the sacramental signs ought not to be carried about for long distances. Long before Innocent's time St. Paul in his letter to the Ephesians (ii. 19) had described Christians as being no longer strangers and outsiders (πάροικοι) but fellow-citizens with the saints ; and St. Peter (Ep. i. 1) had exhorted the scattered Christians in Asia Minor as outsiders (πάροικοι) to the life of the world to abstain from fleshly lusts. These passages show that the πάροικος meant one who dwells close by but not in the city. A city church was not called a parish before the year 801 A.D.[1]

From being used of outside or suburban chapels to being used of any and all chapels dependent on a cathedral or collegiate church the transition was easy ; and so we find in North Africa and in the sixth century in Spain the term used as we now use it to express a country church or district served by a single priest. The statutes of the early church [of Arles] in 505 Can. 31 run : " Let not deacons nor presbyters appointed to any parish (*parochia*) venture to exchange away (*commutare*) any property of the church." The 4th Council of Toledo in 633 Can. 26 runs : When presbyters are appointed to parishes. The earlier name, however, for what are now called parishes was *plebs*, a people.[2] A rural church in this country was never called a parish before the 12th century, but a mass-priest's scyre or district. On the other hand, until the 12th century

[1] Leo III., A.D. 801, in Decret, Lib. III., Tit. IV., c. 1, says : Anastasius cardinal-presbyter of the city church (*titulus*) of St. Marcellus, was canonically deposed by all in synod, because he deserted his parish for 5 years contrary to canonical rule.

[2] For instance, in 348 the 1st Council of Carthage, Can. 5 : " Let no one employ a clergyman belonging to another people " (*hominem alterius plebis*). In 397 the 3rd Council of Carthage, Can. 20 : Let no bishop usurp the people of another " nor supersede a brother bishop (*collegum*) in his own diocese." Council of Antioch, A.D. 341, Can. 3 : No presbyter or deacon to leave his own parish for another.

parish was here used of the sum total of a bishop's rural churches, which is now called a diocese.[3]

II. The Parish in Saxon England.

In the 6th century when Christianity was first introduced among the Saxons by Roman missionaries they brought with them the institutions and usages to which they had been accustomed at home. They therefore first set up churches in the cities of Britain, Canterbury (Bede, I. 26), London (*ibid.*, II. 3), Rochester (*ibid.*, II. 3), York (*ibid.*, II. 14), Dorchester near Oxford (*ibid.*, III. 7), Winchester (*ibid.*, III. 7). In each of these centres a bishop took up his abode with his family or staff of assistants, his mission being to evangelise the country round about, here called his parish or outside district, the peculiar feature of these early settlements being that both bishops and his assistants were monks. There must have been many others established as collegiate churches besides those named as existing names indicate, Wimborn minster established in 713 destroyed by the Danes (Dugdale, *Mon.* II. 88), and in the 10th century Axminster (*ibid.*, VI. 1450) and Exminster (Gildroll, XXXVII. 11). Many of these appear to have existed at first independent of the bishop, but in time were included in one or other episcopal district, whether called parish[4], territory,[5] province,[6] or diocese.[7]

[3] Concil. Tolet. III. in 627, Can. 3: Should a bishop assign any [property] belonging to his parish to secure the prayers of monks without detriment to the church, the gift shall stand. Concil. Clovesho (Lewisham), A.D. 747, Can. 3 requires every bishop to go round his parish every year. The papal legates at the Council of Cealchythe (Chelsea) in 787 commands every bishop to go round his parish once a year. In 963 archbishop Odo admonished his bishops to go about their parishes every year preaching the word. A decretal of uncertain origin but prior to the 11th century (in Gratian, Caus. XVI., Qu. I., c. 9) speaks of monks and abbots in the bishop's parish. Concil. Lat. 1, A.D. 1123, Can. 17, in Mansi XXI. 285, decrees That abbots and monks apply to the bishops in whose parishes they dwell for chrism and the holy oil.

[4] Egbert's Excerption, 28, c. 900, A.D.: Let every bishop take care that the churches in his parish are well built.

[5] Concil. Aurel. I. A.D. 541, Can. 17: All churches (*basilicæ*) wherever built shall be subject to the bishop within whose territory they lie.

[6] Concil. Tolet. XII. A.D. 681, Can. 12: According to the institutions of the ancient fathers let the bishops of the several provinces (i.e. dioceses) meet every year on 1st November. Concil. Tolet. XVII. A.D. 694, Can. 6.

[7] Concil. Tarracon. A.D. 516, Can. 8: Let a bishop every year visit his diocese (*diocesim*).

The bishop's parish supersedes the tribal system.

In the century which elapsed between the coming of Augustin (A.D. 596) and the archiepiscopate of Theodore (673–692) the Saxon church grew up around the principal cities on a tribal basis. The bishop's parish consisted not of an area but of a tribe or clan. The Jutes around Canterbury, the East and Middle Saxons around London, the West Saxons around Winchester, the Anglians of Norfolk and Suffolk, the Midlanders of Dorchester, and the Northumbrians of York each had their several bishops to govern them in spirituals. Such a method of personal government could not survive where individuals frequently changed their place of abode, and so archbishop Theodore, who as Bede says was the first bishop whom the whole people of England obeyed, divided rural chapels of the kingdom into parishes, i.e. dioceses, substituting local areas for tribal units. This creation of areal dioceses was the first step towards the subsequent creation of parishes.

Inclusion of collegiate churches (dioceses) in the bishop's parish.

The next step was the inclusion of collegiate churches in the bishop's parish. Owing to a strange objection dating from the 4th century[8] it had become the custom not to appoint a bishop except in large cities, but collegiate churches were founded in all respects self-governing except in matters requiring episcopal order. The common name for such churches was administrative districts or dioceses.[9] The Saxons called them ancient minsters,[10] and it is in reference to these ancient minsters that Egbert's 25th Excerption prescribes: Let one entire hide (*mansus* = 120 acres) be given to every church service free.[11] We

[8] Concil. Antioch, A.D. 341, Can. 9: "Let those in villages and rural places and those called rural bishops, even if they have received the ordering of bishops, know their places." Concil. Laodicea, A.D. 363, Can. 57: Let not bishops be appointed in villages and rural places other than visiting ones (περιοδευταί).

[9] Concil. Tarracon. A.D. 516, Can. 6 and 7: Let presbyters and deacons in collegiate churches (*diocesanæ ecclesiæ*) keep week-day services. Concil. Brac. II. A.D. 572, Can. 2: Let no bishop when he visits his collegiate churches (*dioceses*) take more than 2 shillings.

[10] Wihtraed's Privileges, A.D. 692, No. 1: "Let all the minsters and churches that have been given and bequeathed to the honour of God . . . remain to the honour of God." Edgar's Law, A.D. 958: "Let every church-shot go to the ancient minster." Ethelred's Law, 4, A.D. 1014: Let every due go to the mother church.

[11] Gratian, Caus. XXIII., Qu. VIII., c. 25; Decretals, Lib. III., Tit.

hear of collegiate churches as well as see-churches founded almost immediately after the coming of Augustin. In 602, for instance, King Ethelbert not only gave to Augustin "a church which he was informed had been used by the ancient Roman Christians where he established a residence for himself and his successors" [the see-church of Christ at Canterbury]; but he also "erected the church of SS. Peter and Paul not far from the city where he placed a body of monks" (St. Augustin's monastery, Bede, I. 32). In 633 Fursey founded a collegiate church at Cnobher's town in Suffolk now called Burgh Castle (Bede, III. 19). In 653 bishop Cedd built collegiate churches at Blackwater River near Maldon in Essex (Ithancestre), and at Tilbury on the Thames (*ibid.*, III. 22). His brother Chad in 660 founded monastic churches at Lastingham (*ibid.*, III. 23) besides others in 669 at Barton upon Humber in Lincolnshire, at Barrow (At Barue) Chertsey (Ceortesei) and Barking in Essex (Bercingum, *ibid.*, IV. 6). After defeating Penda at Winwidfield near Leeds in 655 King Oswy founded collegiate churches at Hartlepool (Heruten or Hart-island), Whitby (Streaneshalch or Lighthouse Bay), and Gilling in Yorkshire (Ingethlingum, *ibid.*, III. 24). About the same time Sexwulf founded Peterborough (Medeshamstead or Meadow Hamlet, *ibid.*, IV. 6), and in 688 King Ina built the minster at Glastonbury (Saxon Chronicle ad an.).

By the Saxons these see and collegiate churches stood on a platform by themselves. The well-known law of Canute (No. 3 in 1017), which mentions four kinds of churches in all, calls see-churches head-churches, and ancient minsters middling churches. The breach of protection, it runs in a head-church is in the case of satisfaction equal to the breach of royal protection, that is according to English law 5 pounds; and in a middling church 120 shillings, which is the same with the mulct to the king.

Establishment of rural churches a work of time.

Cnut's law then goes on to mention two other kinds of churches which it calls lesser churches. A subsequent age spoke of them as donative churches in contrast to collegiate

XXXIX., c. 1. Gratian quotes this as a decree of the Council of Worms, but the Correctores state that it was a constitution of the King of the Franks.

churches which were known as elective churches. And they are stated in the document known as King Edward's Ecclesiastical Laws to have become about three or four times as numerous as they were in King Alfred's time (Eccl. Laws, No. 9). As these lesser churches form the basis of the present parochial system, it is obvious that (1) that system could not have come into being until such churches had become fairly numerous, and (2) not even then until they had become amenable to episcopal authority.

The origin of these rural churches was the erection of a building by the lord of the manor either to serve as a private chapel[12] for himself and his family or for a less worthy motive to be a source of income to himself out of the offerings there made after paying a priest to perform the services of religion.[13]

Within 100 years of the first introduction of Christianity among the Saxons we hear of two lesser churches being founded in Yorkshire, one in 686 at South Burton, the country house of earl Puch about 2 miles distant from the monastery of Jarrow which John bishop of Hexham (Hagulstad) was invited to consecrate (Bede, V. 4); the other at North Burton, earl Addi's estate which the same bishop consecrated (*ibid.*, V. 5). In both these cases the church was built by an earl, and the mass-priest was his private chaplain. Of course, no one who only held folkland could build a church upon it for his own benefit. This privilege could only be exercised by a holder of bookland. Hence private churches must have been at first few and far between. They could not have become common until booklands had become common, i.e. until after Alfred's time. But before the Conquest all the land in the kingdom except the royal estates and the royal forests had been

[12] Concil. Agath. A.D. 506, Can. 21: Should any one, outside the parishes in which the lawful and ordinary services are held, desire to have a prayer-station on his estate we allow him to have prayers there on other festival days to prevent fatigue to his household; but at Easter, Christmas, the Epiphany, the Lord's Ascension, Pentecost and St. John the Baptist's day or any other great festival let them attend nowhere save in the city or the parish.

[13] Concil. Brac. II. A.D. 572, Can. 6: If any one builds a country church (*basilica*) not from devotion to the faith but out of covetousness intending to share what is given by way of offering to the clergy there, on the ground that the church stands on his land (as is said to be the custom in some parts), let the rule be in force for the future that no bishop give countenance to such an abominable intention (*votum*) or dare to consecrate it.

granted out and the owners of most booklands had either themselves built churches or joined with neighbouring bookland-holders in building them. The power of building a church was an appurtenance of bookland and the church when built, like a borough, a market, or a fishery, was the property of the bookland-owner. If the bookland-owner desired to have service in the church it was his business or that of his villagers to provide the mass-priest with a maintenance. Or, on the other hand, he might farm out the church to the mass-priest for a fixed or a variable rent, and could appoint or dismiss him at will. When, therefore, we read in Domesday of laymen possessing churches or portions of churches, we must understand that this means really possessing them,[14] not only the site on which the churches were built but the tithes,[15] offerings,[16] and dues[17] which were appurtenant to the site, and possessing them so that they could give them to whom they liked and upon what terms they pleased. The bishop had only to be consulted if the nominee needed ordination. With such a state of things no wonder the complaints about simony were overwhelming.

III. The Parish in Norman Times.

Three things about the parish call for attention in Norman times: (1) the parish boundaries, (2) the position of the temporal or manorial lord in relation to it, and (3) the position of the spiritual head, the chaplain. Respecting the boundaries, the area of the parish consisted of the lands of one or more manorial lords who had built or combined to build the church, or of the lands of a submanor held under the crown or some important baron. The frequent occurrence of outliers is accounted for by these being outlying lands belonging to the same manorial

[14] For instance, "In the manor of Wanetinge in Berkshire Peter the bishop holds 2 parts of the church with 4 hides thereto belonging which never paid geld. Now they are in the King's hand because they were no part of his bishopric. The 3rd part of the aforesaid church William the deacon holds together with one hide." In Suffolk the $\frac{1}{72}$ of a church belonged to a small manor of 30 acres (*D.-B.* I. 75).

[15] Evidence of tithes being held by laymen is the numerous grants of them by laymen.

[16] The 1st Lateran Council in 1123 in its 14th Canon forbids laymen to take any part of the offerings made to churches.

[17] Such as the church-shot. See *Trans.* XXXIX. 368, n. 16. In Worcestershire the lord of a manor paid a horse-load (=240 lb.) of corn as church-shot. The villager usually paid a cock or a hen valued at one penny.

lord as the parish. An instance of a parish made up by the joint action of several manorial lords is Combe-in-Teignhead which includes the manors of Combe, Combe Cellars, Netherton, Buckland Baron, Middle Rocombe, and part of Haccombe (*Trans.* XLVII. 234). Exminster parish includes, besides Exminster manor, Shillingford Abbot, Matford Butter, Peamore, and Towsington (*ibid.*, 235). The parish of Bradwood Wyger includes the manors of Bradwood Wyger, Downacary, Moor, and Norton Bauzan (*Trans.* XLVI. 238). On the other hand, Exminster, Kenton, and Kenn have each a distant outlier. Bystock is an outlier of Colaton Raleigh. Frithelstock has four outliers to the South West. Many more might be quoted.

The manorial lord gives place to the parson.

The first business which the Norman prelates set out to pursue, or rather those of them who were not engaged in fighting, hunting or hawking, was to establish episcopal control over donative churches. At a Council held at Winchester in 1070 Can. 6 ordained: "That bishops have free power in their dioceses over the clergy and laity." In the following year Can. 8 of Lanfranc's Council at Winchester ordered: "That masses be not celebrated in churches before they have been consecrated by bishops." Can. 15 of Anselm's canons of Westminster in 1102: "That new chapels be not made without consent of the bishop." Archbishop Carboyl's 9th canon at Westminster in 1127 in execution of canons 4 and 18 of the 1st Lateran Council, decreed: "We forbid churches or tithes to be given or taken by any person without the bishop's consent." The 5th Legatine canon at Westminster in 1138: "Let no one accept a church or benefice from the hand of a layman." Canon 10 of the 3rd Lateran Council in 1179: "We enjoin that laymen who hold churches do either restore them to the bishops or submit to excommunication." There were, however, always some manorial lords who stood out for their rights of property. Their churches have survived in independence almost to the present day and are now alone called donatives.

One church-due only seems to have escaped central control, viz. the church-shot. This due, which dates from the time of King Ina (A.D. 692), had in many cases in Hampshire been given in whole or in part to the local chaplain, by whom it was held in the time of Domesday.

Originally like other church property it was in the hands of the manorial lord; and according to the evidence of after-death inquests was in later times still held as an appurtenance of the manor. The Walraund Papers, for instance, show that at Steeple Launton in Wiltshire there were there " 293 acres of arable land, each acre being worth 4 pence, also 9 acres of arable land each acre being worth one shilling, pasture for 24 oxen, the pasture of each being worth 5 pence, pasture for 550 sheep, the pasture of each one worth a halfpenny; rent of assise 103 shillings and 5 pence, a rent of 4 lbs. of wax to be paid at Pentecost; for churcheshot (chersetum) 56 hens each worth one penny and the court and garden worth ½ mark " (p. 26). Among the revenues of the manor of Langford of which sir Robert Waulrond held the third part are enumerated " the churchshot whereof the third part is 11/10½ " (*ibid.*, 29). At Winterbourn Asserton the manor revenues included " churchshot on the feast of St. Martin 28 hens and 10 cocks each worth 1d." (pp. 11 and 18). Among the manor revenues of Yatesbury " church-shot 10 cocks and 30 hens " (*ibid.*, pp. 14 and 17), and among the revenues of Wadden manor the church-shot is given as 17d. (*ibid.*, 30). In all these cases the church-shot was still owned by the manorial lord and is treated as part of his manorial income.

The claim of the bishop to control the patron's choice of incumbent by insisting on the necessity of his institution[18] was based on the ground that since a cure of souls was appurtenant to possession of the site of the church, the fitness of the holder must be subject to the bishop's approval. This was the view taken by the Lateran Councils. Closely connected therewith was the further claim that tithes being God's right[19] ought only to be paid to those " whom the bishop could freely coerce." If, therefore, the manorial-lord had the patronage because the site of the church was held of him as feudal lord, the bishop claimed the administration of the tithes either by men in orders or by men of religion because tithes ought to be administered as a sacred trust.

In the Council held at Westminster in 1102 Canon 13

[18] Concil. Westminster, A.D. 1138, Can. 5: When any man takes investiture from the bishop let him swear on the Gospel that he has neither given nor promised anything. Const. 18 Langton, A.D. 1222; Lyndwood, p. 108.

[19] Concil. Westminster, A.D. 1127, Can. 9: Tithes as the portion of God should be paid in full.

ruled: "That tithes be not paid but to the church only." This canon merely repeated what various councils had decreed in Saxon times, but which as Domesday shows was still a dead letter. But the ruling came with different authority when the 1st Lateran Council decreed in 1123 (Can. 4 in Gratian Caus. XVI., Qu. VII., c. 20; Mansi XXI. 282) that "In accordance with the ruling of the most blessed pope Stephen we decree that laymen, albeit they may be men of religion, have no power of disposing of ecclesiastical property; but according to the canons of the apostles let the bishop have charge of ecclesiastical property (*res*) and dispose of the same in the sight of God."

This decree was followed by one more stringent at the 2nd Lateran Council in 1139 which laid it down (Can. 10 in Mansi XXI, 528) that "Tithes of churches which canonical authority shows were given for pious uses we forbid by apostolic authority to be in the possession of laymen. Whether they got them from bishops or kings or from any other persons let them know that unless they restore them to the church they are committing the crime of sacrilege and incur the risk of eternal damnation." In 1179 the 3rd Lateran Council finally closed the door to laymen, keeping in their hands the administration of tithes by decreeing (Can. 14 in Mansi XXII. 226; Decretals of Gregory IX., Lib. III., Tit. XXX., c. 19): Also we forbid laymen who at the peril of their souls withhold tithes to transfer the same in any way to other laymen. Should anyone receive them and not hand them over to the church, let him be deprived of Christian burial."

The effect of this canonical legislation was twofold. (1) The customary gifts in kind made to the local chaplain were now systematised and included among tithal obligations under the name of altalage. (2) The disposal of what had hitherto been exclusively called tithes, that is the tithe of corn and grain and of all things grown in the open field was taken out of the hands of the manorial lord, all that was left to him being the power with the bishop's consent[21] to assign them to what church he liked.

[21] Concil. Westminster, A.D. 1127, Can. 9: We forbid churches or tithes or ecclesiastical benefices to be given or taken by any person without the bishop's consent. Concil. Westminster, A.D. 1200, Can. 12: According to the tenor of the Lateran Council we decree That no Brothers Templars, Hospitallers or any men of religion accept churches, tithes or any ecclesiastical benefice without the authority of the bishop.

Three alternatives in disposing of the tithe.

Three alternatives now presented themselves to every dutiful patron of a Church who desired Christian burial. Either (1) he might appoint some trustworthy person (*certa persona*)[22] to undertake the administration of his tithes who should become an officer of the church by being tonsured and admitted to minor orders. Or (2) he might bestow his tithes on the chaplain of his own church. Or (3) he might give them to some religious house or foundation with the bishop's consent.

In places where the first course was adopted the place of the lord of the manor was taken by an officer of the church henceforth known as the trustworthy person (*certa persona*) or parson,[22] whose duty it was to receive and expend the tithes and other spiritual revenues in accordance with the canons. It will, however, be apparent from the quotations already made from the Walraund papers, that as the Lateran canons do not mention the churchshot, this source of income was in many places retained by the manorial lord.

The earliest instance that I can quote for the use of the term parson in the sense of the man who is responsible to the bishop for the temporal administration of the church is the 20th canon of the 1st Lateran Council in 1123. It runs (Mansi XXI. 286): "We ordain that churches together with their goods, as well parsons as property to wit clergy and monks and their lay brethren (*conversi*) also tillers of the soil and the implements they use shall be safe and free from molestation." The 12th Constitution of Clarendon in 1164 provides that when a church is vacant the king shall send his mandate to the chief parsons of that church and they are to make the election in the King's chapel "with the advice of the King's parsons whom he shall call for that purpose." Afterwards the term becomes common to designate the administrator of the temporalities of the church just as the term chaplain is used of the administrator of the spiritualities who has the cure of souls. The 13th Constitution of archbishop Langton in 1222 forbids any "church to be committed to two rectors or two parsons." As the process of consolidation was then in full swing the use of the term parson in its proper sense soon disappears and it was generally in vogue as the equivalent of rector.

[22] Lyndwood. 19;

Two or three instances of gifts to a monastic church of lands and tithes in Devon may be supplied from the Calendar of Documents in France: William de Poillei who in 1086 held Stoke Rivers, Beaworthy, Cadbury, Bickleigh, Buckland Monachorum and Sampford Spiney in Devon gave a third of the tithes of the corncrop from all his lands in Devon to St. Martin of Séez (*Cal. Docts. in France* 235). Similarly Joslin de Pomeray in 1125 gave to the church of St. Mary du Val and to the canons there serving God according to the rule of St. Augustin not only land but also the tithe of his mares in Normandy and England . . . the tithe of his pigs and his mills at Berry [Pomeroy], his chaplain-dues (*capellaria*) in England [i.e. his small tithes] to wit the tithe of wool and cheese and piglets and lambs at [Up]ottery (Otreuum) and of all belonging to his chaplain-dues in England (*ibid.*, 536).

Again William de Braose about 1160 in a charter addressed to Robert [Warelwasst 1155–61] bishop of Exeter confirmed a grant made by Juhel his grandfather of lands and churches for the support of the monks of Clugny on the day when he founded [about 1080 A.D.] the dependent house (*obedientiam*) of St. Mary Magdalene, viz. Pilton and Pilland the churches of Bardestaple with the chapel of St. Salvius and all appurtenances, the mill of Barnstaple with milling-rights over the whole town and castle, the churches of Tawstock with all their appurtenances . . . two thirds of the tithes of Fremington and half the tithe of Tawstock together with the tithe of fish (*ibid.*, 460).

The instruments by which these gifts were assured usually specify the purpose of the gift. Thus bishop Bronescombe's appropriation of Dean Prior to Plymton Priory on 15 Oct., 1270 (*Bronescombe* 65), which is addressed to the Prior and Convent of Plymton, sets forth: "Wherefore beloved in Christ, we being minded to further your humble devotion with paternal affection, in order to relieve the necessities of the poor and of strangers that flock to you, with consent of the dean and chapter of our church of Exeter . . . give and confirm to you in full right[23] the church of Dene with its fruits and obventions . . . to hold for ever to your own proper uses saving a suitable portion for the vicar to be canonically presented

[23] When a church was given in full right, the gift was a grant of the site, of the tithes and of the altalage or small tithes and offerings.

to us and our successors by you." When appropriating the church of St. Breward to the dean and chapter of Exeter on 5 Sept., 1278, the same bishop required that on the solemn anniversary every year the aforesaid dean and chapter should supply 50 poor invalids with food and drink to the value of one penny each (*ibid.*, 243).

Examples of gifts to the chaplain.

Among examples of gifts to the chaplain of which documentary evidence survives the majority no doubt being simply feofments. "About 1130 Simon bishop of Worcester (1125–1151) allowed and confirmed a gift of tithes made by the good men of Exhall (Eccleshale) in Worcestershire to the church which they had themselves built " (Dugdale, *Hist. Warwick*, 1656, p. 630). About the same date bishop Bernard of St. David's confirmed a gift of land and tithes to the church of St. Mary of Hay in Brecknockshire made by the lord of the manor William Revel with consent of his overlord Bernard de Novo Mercarto (Selborne, *Ancient Facts and Fictions*, 1892, p. 352). The deed sets forth that " he gave to the same church the tithe of his land of Hay in all things and of the land of Ivo and Malenianc and of all those who held of the fee of Hay. And lest there should be a doubt in future [about what was included] he gave and firmly granted the following tithes, viz. of the sheaf and hay, of fowls and calves, of lambs and piglets, of wool and cheese, of the fruit garden (*virgultum*), of his rents in Wales, pannage and plea-dues " (*ibid.*, 352). This was the gift of the entirety of the church, of the great tithes as well as of the small tithes to the chaplain of the church.

The mass-priest becomes the chaplain.

Turning to the spiritual side of the parish ; just as the manorial lord gave place to the parson in Norman times, so the mass-priest holding office at the will of the lord gave place to the chaplain instituted by and amenable to the bishop, in other words the incumbent became emancipated from lay control and was brought under episcopal control. This change involved three things, each of which was only gradually effected : (1) The recognition of institution by the bishop as necessary to obtain possession of a church ; (2) the limitation of the services or payments which a patron or other interested person could demand from an

incumbent; and (3) protection against being disturbed in possession except by canonical process.

Already in the 56th of Egbert's Excerptions, wrongly attributed to archbishop Theodore but which is far more likely a reproduction of a canon of the Council of Mainz in 813 A.D. (ap. Gratian, Caus. XVI., Qu. II., c. 37), we find it laid down that: "Without the authority and consent of the bishop let no mass-priest be appointed to any church or deprived of the same." But this was of no avail until the 1st Lateran Council in 1123 took the case up and by its 18th canon (Mansi XXI. 285) decreed: "Let presbyters be instituted by bishops (*constituantur*) to whom they shall be answerable for the cure of souls and for such things as belong to the bishop; but let them not take over tithes or churches from laymen without the bishop's consent." Following this the Council of London in 1126, Can. 4, decreed: "Let no monk or clergyman accept a church, tithe or any ecclesiastical benefice without the bishop's consent." The same ruling is repeated in Can. 9 of the Council of Westminster in 1127, in Can. 5 of the Council of Westminster held in 1138 and presided over by Alberic legate of pope Innocent II.

To prevent the chaplain suffering from the covetous demands of the manorial lord Lanfranc's Council held at Winchester in 1076 decreed (Can. 3): That no clergyman either in town or country pay any service for his ecclesiastical benefice other than what was paid in the time of King Edward.

Manorial lord's opposition to fixity of tenure.

Notwithstanding the efforts made by the bishops to secure fixity of tenure against the patron for rural chaplains, the old idea that the lord of the manor, as owner of the soil, could do what he liked with the church and therefore that if an estate changed hands it might also change chaplains still held its ground. Hence, when William Rufus gave the church of Sutton Courtney in Berkshire to the abbey of Abingdon, Aelfwij the priest appeared before the abbot and humbly prayed that possession of the church might be continued to him (*Chronicon Monasterii de Abingdon* II. 28). When Juhel gave the church of St. Mary at Totnes to the monastery of St. Sergius and Bacchus the presbyters Hubert and Anschetit appeared before the representative of the monastery and prayed to

be allowed to retain the fee which had been granted to them by Juhel (*Trans.* XXIX. 234, n. 17; Oliver, *Mon.* 241). To prevent a chaplain being dispossessed by his patron Can. 9 of the Council of London in 1126 ruled: Let no abbot, clerk or layman oust any one from a church to which he was instituted by the bishop without the bishop's sentence. Alexander III. (1159–1181) found it necessary to protest against the view that the chaplain's tenure of the benefice depended upon the lord's tenure of the estate. To Henry II. he wrote (Mansi XXII. 440): "We have received a letter of your majesty addressed to us on behalf of R. a knight as to the patronage-right of the church of . . . (Ligurgis al. Bligurd). . . . But seeing that it is contrary to the rules of the holy fathers were we to allow clergy to be put out of churches which they have canonically acquired under cover of patronage, we cannot with good conscience oblige the said knight as requested." Another decretal of the same pope Alexander III. (Mansi XXII. 238; *Decretals* Lib. III., Tit. XXXVIII., c. 9) declares: We have received a complaint addressed to us by the prior and convent of Lanthony (Lanch) setting forth that R[oger] sometime earl of Hereford (1144–50) acknowledged before J[ohn de Pagham] of happy memory sometime bishop of Worcester (1151–58) the right which the said prior and brethren ought to have in the church of Wick by grant of H[ugh de Lacy] founder of the said church [in 1108] and father-in-law of the said Roger. . . . But after the aforesaid earl had divorced C[ecilia daur. of Payne Fitzjohn] his wife, the same C[ecilia] married W[illiam] of Poitiers who withdrew all the fruits of the benefice from the said prior and brethren and bestowed them on R. priest of the same place without the bishop's authority. Afterwards when on the death of W[illiam] the said C[ecilia] married for the third time W[illiam] de Mayne, this W[illiam] persisted in the same evil course on the ground . . . that what the bishop had done in the church which was his wife's advowson at the time when she was under coverture could not prejudice him, and that unless be could bestow the church as he liked his wife's patrimony would not come to him in its entirety. Now seeing that it is monstrous and unreasonable that appointments to churches should be made to depend on changes of patrons . . . we enjoin upon you, etc.

Abuses, however, still continued, as is evidenced by

Canon 14 of the 3rd Lateran Council in 1179 (Mansi XXII. 226; Decretals, Lib. III., Tit. XXXVIII., c. 4) which declares: "Seeing that the audacity of some has got to such a pitch that setting at naught the authority of bishops they institute clergy to churches and remove them at their own sweet will and also as they list dispose of their property and other ecclesiastical goods . . . we ordain that they who in future shall be guilty of such conduct shall be struck with anathema."

In 1180 Alexander III. wrote to the archbishop of Canterbury (Mansi XXII. 378): From constant complaints of persons we learn that in your parts a bad and abnormal custom prevails of clergy out of sheer avarice taking over churches and ecclesiastical benefices without the consent of the diocesan bishop or his officials. . . . We therefore command that every bishop in his bishopric shall at least 4 times a year renew the sentence of excommunication against such as do so, and do ye cause [this command] to be carried out barring cavil and appeal.

Even after the civil legislation of Henry II. we find the 4th Lateran Council in 1215 in its 32nd Canon (Mansi XXII. 1021) complaining: An evil and corrupt practice which ought to be put down has grown up that in some places patrons of parish churches and others claim for themselves their entire income leaving so slender a portion for the presbyters told off to serve them that they can scarcely subsist upon it. We therefore ordain that notwithstanding any custom pleaded by bishop or patron or by any other person a portion shall be assigned to the presbyters sufficient to maintain them.

The possession of land.

The most effectual thing, however, whereby the chaplain's fixty of tenure was secured was the possession of land and the legislation of Henry II.

According to the evidence of Domesday very few parochial chaplains were in 1086 holders of land. Even the site of the church was still regarded as the possession of some lay lord or else as held as a tenement of some manor. At Wantage, however, both the parson and the chaplain had an estate in land. Peter the bishop had 4 hides as parson not belonging to his see and William the deacon as chaplain had 1 hide free of geld. The church of Hanney

held by Turold the priest was endowed with one hide. At Compton the church was endowed with ½ hide ; at Lockinge with ½ hide, at Sparsholt Edred the presbyter had 1 hide.

In Devonshire in a list of 12 estates "given to God in alms," only two were held by the chaplains of non-collegiate churches. Sawin the queen's priest had at Swymbridge an estate of 3 virgates. Algar had at Braunton one hide of land.

The legislation of Henry II.

If by gifts of land fixity of tenure was secured to a small number of rural chaplains, the legislation of Henry II (A.D. 1154–1189), which made possession nine points of the law, affected all but a very few. This legislation following that of the Civil Law, the knowledge of which had been lately introduced by Vacarius at Oxford distinguished between proprietary and possessive $\frac{\text{rights}}{\text{actions.}}$ As professor Maitland observes (*Constitutional History*, 12): "Proprietary actions still went to the feudal court. But Henry by some ordinance that we have lost took under his royal protection the possession, or seisin as it was called of all freeholders." "He provided in his own court remedies for all who were disturbed in their possession. These remedies were the possessory assises [or sittings of the King and his barons to try actions] concerning *Novel Disseisin* and *Mort d'Ancestre*. There was a third assise that of *Darrain presentment* or Last presentation. The machinery was in the first place intended to protect possession only, but it was gradually extended to all other actions. Henry himself extended it to proprietary actions for land in the form of the *Grand assise*. By means of this writ the person sued might refuse trial by battle, the usual method in the feudal court, and have the question 'Who has the best right to this land ?' submitted to a body of his neighbours sworn to tell the truth." Hence, whereas in Saxon times the right to the church followed the *property* in the manor of which it formed part, by Henry's legislation *possession* was the important thing. When once put into lawful possession of freehold land, the possessor could not be disturbed by the claim of the stronger but only by legal action. As Glanvill writing about 1180 expresses it (Lib. XII., c. 20): "A fit person instituted by the bishop shall retain his benefice during his life whatsoever may afterwards happen in respect to the advowson."

Inquests of patronage held at a somewhat later date illustrate the effects of this legislation. They state that the incumbent of a benefice is a life-tenant because he is in lawful *possession* by induction or seisin, though the *property* in the land of the benefice may still be in the lord of whom the land is held. They also explain why ordinary village churches are not mentioned in the pages of Domesday, because the land or site of the church to which the chaplain-dues belong, was like other unrecorded freeholds included in the manor. Thus on 28 Feb., 1445, the chapter of the deanery of Trigg minor make return upon oath (*Bronescombe* 471): "The true patron of St. Tudy for this turn is John Nantan and the right of presentation belongs to him for this turn by reason of a grant made to him in fee simple of lands and tenements within the manor of Trethywelle and St. Tudy, together with the glebe and all appurtenances . . . to which the right of presentation is appurtenant" (*Lacy*, 294).

Again on 16 Feb., 1448, the chapter of North Tawton return upon oath: The most illustrious King Henry VI. last time presented to North Tawton by reason of the minority of Thomasia daughter and heiress of Richard Hankforde, lord of a certain glebe within the parish of Cheping Tawton to which the right of patronage is appurtenant" (*Lacy*, 330).

In almost the same words the chapter of Shirwell deanery state upon oath: "On the last occasion the right of presentation to Laxhore belonged to sir Richard Chichester, knight by hereditary right by reason of a certain glebe existing within the parish of Lokyshore to which the right of patronage in the said church is appurtenant" (*Lacy*, 330).

In all these cases—and many more to the same effect might be quoted—the finding is that the glebe being held of the lord as part of his fee and the church being appurtenant to the glebe, give to the lord the right of presentation whenever there is a vacancy.

IV. The Consolidation of the Parish.

Of the three varieties of persons to whom grants of tithes might be made pursuant to the decrees of the Lateran Councils, those made to religious houses were by far the

most satisfactory. Those made to individuals who were admitted to minor orders in order to take them proved eminently unsatisfactory. An example of such unsatisfactoriness is the way in which William Tracy disposed of his churches and tithes " before his crime against St. Thomas." As lord of the barony of Braneys William de Tracy was patron of a group of churches including Huntshaw, Countesbury, Lynton, Combe-in-Teignhead, Cruwys Morchard and Whipton. All of these he made over by one grant to Alan de Tracy, presumably a relative but not his heir, a clerk in minor orders, and Alan de Tracy granted them to one Thomas, a clerk at a fixed pension. From a charter executed by William's nephew Hugh de Coterna between 1186 and 1191 we learn that on William's death Hugh confirmed his uncle's grant to Alan de Tracy and that Alan appeared before John bishop of Exeter (1186–1191) to have possession assured to him after the death of Thomas the clerk in possession (Kal., *Docts.* in France 194).

To prevent abuses such as this the bishops encouraged the consolidation of benefices that is the union of the parsonship and the chaplaincy in the hands of one and the same person ; and although the record is wanting consolidation must have proceeded apace before the time of bishop Bronescombe whose registers are only evidence of the practice at the finish.

Examples of consolidation.

Among other churches consolidated in the diocese of Exeter in the time of bishop Bronescombe (A.D. 1257–1280) " Richard de Hydone was admitted to the whole church of Meshaw on 3 Sept., 1263, by consolidating the portion which the presbyter Juvenal long held in it with the parsonship (*personatus*) or portion of 2 shillings " (*Bronescombe*, 155). On 19 Oct., 1258, the vacant vicarage of the church of Churchstaunton was " consolidated with the parsonship on condition that the rector of the same church should keep personal residence in the same " (*ibid.*, p. 124). On 28 August, 1260, the same bishop " on the presentation of Richard de Trendelesho admitted Henry a presbyter for some time vicar of the said church to the vacant rent-charge of 2½ marks in the same church, and considering that the resources of the church were insufficient for [the

support of] two, instituted him to the entirety (*ibid.*, 188). On the same day the bishop on the presentation of William de Raleghe " consolidated the vacant vicarage of Laxhore with the parsonship and instituted Roger a presbyter there as rector of the said church in its entirety " (*ibid.*, 152). On 25 April, 1261, the bishop " consolidated the then vacant vicarage of the church of Hamme (Georgeham) with the parsonship of the same, saving to the dean of Exeter and his successors a rent-charge of 20 shillings by reason of the church of Braunton [of which Georgeham formed part] being annexed to the deanery of Exeter" (*ibid.*, 93). On 26 April, 1261, the bishop consolidated the church of Lawhitton and assigned it to the rector of the same to hold by the title of perpetual commendation (*ibid.*, 149). On 26 Dec., 1262, William de Membiri subdeacon was admitted to the entirety of the church of Methe in which he previously had 5 marks yearly by the name of the parsonship (*ibid.*, 155). On 1 March, 1264, the bishop admitted Roger de Sancto Constantino, clerk, to the parsonship of 2 marks in the church of St. Newlyn with right to succeed to the entirety on the death of the chaplain [in possession]. Again on 25 January, 126$\frac{3}{4}$, the bishop admitted Richard de Bamfeld to half a mark of silver (6/8) by name of the parsonship of Thoverton with right of succeeding to the entirety on the death of Richard de Chipestable and instituted him as rector in the same church (*ibid.*, 185). A later instance of consolidation occurred in July, 1282, when bishop Peter Quivil decreed the consolidation of the vicarage of St. Phillack with the parsonship there into a rectory (Quivil, 366).

The effect of consolidation was to unite the temporal and the spiritual administration in the same person and to establish in rural districts an officer exercising all the powers previously exercised by a bishop in his see-church, barring those requiring episcopal order. This officer is henceforth known as the rector.[24]

[24] The term rector or ruler was originally confined to the bishop, and then given to the head of a collegiate church owing to the strange prejudice current since the 5th century of not having a bishop except in a large city. It is used of the bishop in the Constitution of Otho, A.D. 962; ap. Gratian, I. Dist. LXIII., c. 33; to the head of a collegiate by Concil. Clevesho, A.D. 747, Can. 24: Let bishops of churches and rectors of monasteries know, etc. It is used of the head of a rural church in 655 by Concil. Tolet. IX., Can. 2, and in 675 by Concil. Brac. III., Can. 7.

It was obviously impossible for a religious house or a collegiate church to which a distant rural church or its tithes had been given to discharge either its temporal or its spiritual duties except by deputy, and such a deputy when appointed with the bishop's sanction was commonly called a vicar, but sometimes a prior, for instance at Ipplepen, Woodland and Otterton. When a religious house held a church in full right, it usually served it by sending a monk who was a priest to act as temporary chaplain or vicar with one or more members to bear him company and the chaplain was constantly changed. Where a vicar was perpetual, a religious house often only allowed him what seemed to secular clergy a very diminutive allowance. Hence Alexander III. (1159–1181) was fain to address a decretal to the bishop of Worcester (Decretals, Lib. III., Tit. V., c. 12; Mansi XXII. 397). "As to monks who so grind down the vicars of parochial churches that they cannot exercise hospitality and have not even enough to support themselves, be pleased to give heed not to admit any one on the monks' presentation unless in your presence a sufficiency has been assigned to him from the revenues (*proventus*) of the church wherewith to discharge episcopal-dues and to supply him with adequate support." Some religious houses, however, preferred to make a grant of the rectory for life to the vicar upon terms satisfactory to both parties. Exminster church, for instance, which William de Vernon earl of Devon had given on 8 June, 1208, to Plymton priory (*Devon Fine*, No. 59) and which in 1288 was valued at £17. 6. 8. (*Bronescombe*, 452) was given by that priory to the chaplain of Exminster who thus became rector at a reserved rent of £6. 13. 4. (*ibid.*, 453). Afterwards the reserved rent was reduced to 66 shillings and 8 pence and this sum continued to be paid by the rector of Exminster to Plymton priory until the dissolution (Oliver, *Mon.* 149). Similarly the rectory of Down St. Mary valued in 1288 at 40 shillings (*Bronescombe*, 455) was granted by Buckfast abbey, the impropriators to the chaplain of Bucfast at a reserved rent of 24 shillings (Oliver, *Mon.* 377). In most cases the bishop settled what the vicar was to receive and so protected him against the caprice of the rector. Such a settlement was termed a *taxatio*. On 17 August, 1269,

bishop Bronescombe settled all the Cornish vicarages in the deaneries of Trigg major, Trigg minor, East and West (Reg. 269); on 28 August, 1269, all the vicarages East of the Exe and on 26 August all the vicarages in the archdeaconry of Barnstaple (*ibid.*, 270). Particulars of a large number of those settled after 1259 are to be found in the Episcopal Registers, but only a very few of those made before that date are extant. Attention may be drawn to two points about them all, viz.: (1) the distinction between tithe from the curtilage and garden and tithe from the open field; and (2) the way in which parochial charges are usually thrown on the vicar who by way of compensation usually receives a good deal more than the small tithes. Thus, for example, the tithe of peas grown in the garden or curtilage is usually assigned to the vicar together with offerings under the name of altalage, whilst the tithe of peas grown in the open field goes to the rector.[25] The charges which are commonly thrown on the vicar are the archdeacon's procuration, the bishop's *cathedraticum* or see-due, a sum fixed not to exceed 2 shillings[26] and the bishop's *synodaticum* or synodals,[27] often confounded with procurations. It is also worthy of note that although much abuse has been lavished on the monks since Henry VIII.'s time, yet to judge by the recorded settlements the vicar of an English parish fared much better at their hands than at the hands of a secular collegiate church. So carefully had the monasteries discharged their duty to the poor, in

[25] Thus at East Budleigh all the altalage and the whole tithe of beans, peas or vetches growing in gardens was on 28th August, 1269, assigned to the vicar (*Bronescombe*, 40). On the same day at Halberton the whole altalage and the whole tithe of hay, flax, beans and peas growing in gardens was assigned to the vicar (*ibid.*, 99). At Kingsteignton the vicar was to have the tithes of beans and peas from the curtilage, however grown, and master Thomas the parson was to have the tithe of beans and peas grown in the open field (*ibid.*, 191). At St. Issy the vicar was to have the tithe of hay of the whole parish together with the tithe of beans and peas growing in gardens and hitherto cultivated as such (*ibid.*, 250). At St. Kea he was to have the altalage of the mother church and its 2 chapels but not the tithe of beans and peas growing in the open field (*in campis*) (*ibid.*, 250). At St. Keverne the vicar was to have the tithe of beans and peas "in the ancient curtilages existing at the date of the present settlement," but not the tithe of beans, peas and vetches growing in the open field of the whole parish (*ibid.*, 251). See also St. Marychurch (*ibid.*, 253), Yarcombe (*ibid.*, 285) and Zennor (*ibid.*, 285).

[26] See the case of Antony (in *Stapeldon*, 32), Barnstaple (*ibid.*, 41 and *Trans.* L.), Upottery (*ibid.*, 397). At Rattery the vicar was to pay one-third and the appropriators two-thirds of both ordinary and extraordinary charges (*Bronescombe*, 370).

nursing the sick and exercising hospitality that notwithstanding the shortcomings of individuals most of them had incurred liabilities in meeting their expenses and were deeply in debt at the time of the dissolution.

Statutary requirement that vicars shall be perpetual and be adequately endowed to exercise hospitality and almsgiving.

Although the bishop's institution was necessary to put a man in possession of a cure of souls, yet such institution might be given either for a limited term of years or for life as a perpetuity. The universal requirement of institution for life, whereby an incumbent acquired a freehold was the result of a statutory enactment at the end of the 14th century. But even when a man had been instituted for life, a parish might still be exposed to perpetual changes if the vicar were a man of religion under a vow of obedience to his abbot, because the abbot might at any time call upon him to resign. Moreover, church property even when conscientiously administered by a religious house, did not always benefit the poor or the sick of the parish from which it was forthcoming. The religious house usually lay far away; the villagers were not benefited by its well-kept infirmary, its hospitality to strangers, or the excellence of its library. Hence the local tithe-payer had a grievance intensified possibly by the tradition of times when the dispensation of tithes was in the hands of the manorial lord. These grievances made themselves felt in time, and in 1391 found expression in an Act of Parliament which among other things ordained (15 Ric. II., c. 6):

"Whereas divers losses and inconveniences have oftentimes happened and do happen from day to day to the parishioners of divers places by the appropriation of the benefices of the same places, it is agreed and allowed that in every license to be henceforth made in the chancery, for the appropriation of any parish church, it shall be expressly contained and set forth that the diocesan of the place upon the appropriation of such churches shall ordain, having regard to the value of such churches, a convenient sum of money to be paid and distributed yearly out of the fruits and profits of the same churches by those that shall have the said churches in proper use and by their successors to the poor parishioners of the said churches in aid of their living

and sustenance for ever ;[27] and also that the vicar be well and sufficiently endowed."

Not content with this statute, 11 years later in 1402, Parliament passed a further Act (4 Hen. IV., c. 12) which after re-enacting the above made the following additions :

> "From henceforth in every church so appropried or to be appropried a secular person shall be appointed perpetual vicar, canonically instituted and inducted and adequately endowed at the ordinary's discretion, to do divine service, to instruct the people and to keep hospitality there ; and that no man or religion be in any wise made vicar in any church so appropried for the time to come."

To sum up, the elaboration of the English parish took more than 700 years to complete. It began as a private institution among the Saxons and for 300 years it continued more or less a private institution, created and endowed by the manorial lord and treated as an appurtenance of the manor. During the next 200 years under Norman administration and as a result of the decisions of three of the Lateran Councils it attained a canonical position. The manorial lord gave place to the parson as administrator, and the mass-priest-at-will to the chaplain, whose tenure was dependent on the bishop, not on the caprice of the manorial lord. Finally, at the end of another 200 years, by the intervention of the State, the incumbent acquired the benefice as a freehold, and some provision was secured for the local poor out of the resources of the parish. The parish, as we know it, was complete in 1402, and its canonical position was not altered by the passing of the first Poor Law Act in 1601 rendered necessary to provide a substitute for the charitable offices previously provided by the religious houses gratuitously.

[27] When I was vicar of Sparsholt, Co. Berks, of which the rectory was appropriated to Queen's College, Oxford, in 1387, I received every year from the college 13/4 or 1 mark under the heading *Pauperibus*, i.e. For the poor.

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